

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1406 be amended to read as follows:

- 1 Page 1, line 14, strike "in a county containing a".
- 2 Page 1, line 15, strike "consolidated city,".
- 3 Page 2, line 16, strike "may" and insert "**shall**".
- 4 Page 2, delete line 24.
- 5 Page 2, between lines 36 and 37, begin a new paragraph and insert:
- 6 "SECTION 4. IC 7.1-3-1-14 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) It is lawful
- 8 for an appropriate permittee, unless otherwise specifically provided in
- 9 this title, to sell alcoholic beverages each day Monday through
- 10 Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing
- 11 local time, the following day. Sales shall cease wholly on Sunday at 3
- 12 a.m., prevailing local time, and not be resumed until the following
- 13 Monday at 7 a.m., prevailing local time.
- 14 (b) It is lawful for the holder of a ~~supplemental~~ retailer's permit to
- 15 sell the appropriate alcoholic beverages on Sunday from 10 a.m.,
- 16 prevailing local time, until 12:30 a.m., prevailing local time, the
- 17 following day.
- 18 (c) It is lawful for the holder of a permit under this article to sell
- 19 alcoholic beverages at athletic or sports events held on Sunday upon
- 20 premises that:
- 21 (1) are described in section 25(a) of this chapter;
- 22 (2) are a facility used in connection with the operation of a paved
- 23 track more than two (2) miles in length that is used primarily in
- 24 the sport of auto racing; or
- 25 (3) are being used for a professional or an amateur tournament;

beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 5. IC 7.1-3-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a beer wholesaler's permit may purchase and import from the primary source of supply, possess, and sell at wholesale, beer and flavored malt beverages manufactured within or without this state.

(b) A beer wholesaler permittee may possess, transport, sell, and deliver beer to:

(1) another beer wholesaler authorized by the brewer to sell the brand purchased;

(2) a consumer; or

(3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, ~~or supplemental caterer's permit; or supplemental retailer's permit;~~

located within this state. The sale, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

(c) Delivery of beer to a consumer shall be made in barrels only with the exception of the beer wholesaler's bona fide regular employees, who may purchase beer from the wholesaler in bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints at any one (1) time.

(d) The importation, transportation, possession, sale, and delivery of beer shall be subject to the rules of the commission and subject to the same restrictions provided in this title for a person holding a brewer's permit.

(e) The holder of a beer wholesaler's permit may purchase, import, possess, transport, sell, and deliver any commodity listed in IC 7.1-3-10-5, unless prohibited by this title. However, a beer wholesaler may deliver flavored malt beverages only to the holder of one (1) of the following permits:

(1) A beer wholesaler or wine wholesaler permit, if the wholesaler is authorized by the primary source of supply to sell the brand of flavored malt beverage purchased.

(2) A wine retailer's permit, wine dealer's permit, temporary wine permit, dining car wine permit, boat permit, airplane permit, ~~or supplemental caterer's permit. or supplemental retailer's permit.~~

(f) A beer wholesaler may:

(1) store beer for an out-of-state brewer described in IC 7.1-3-2-9 and deliver the stored beer to another beer wholesaler that the out-of-state brewer authorizes to sell the beer;

- (2) perform all necessary accounting and auditing functions associated with the services described in subdivision (1); and
- (3) receive a fee from an out-of-state brewer for the services described in subdivisions (1) through (2)."

Page 3, between lines 13 and 14, begin a new paragraph and insert:
 "SECTION 6. IC 7.1-3-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder of a liquor wholesaler's permit shall be entitled to sell liquor at wholesale.

(b) A liquor wholesaler shall be entitled to purchase liquor within this state from a person who holds a distiller's permit, a rectifier's permit, or a liquor wholesaler's permit. A liquor wholesaler also may purchase liquor outside this state from the primary source of supply and, from that source, may transport and import liquor into this state.

(c) A liquor wholesaler may sell, transport, and deliver liquor only to a person who, under this title, holds a:

- (1) liquor retailer's permit;
- (2) supplemental caterer's permit;
- ~~(3) supplemental retailer's permit;~~
- ~~(4)~~ (3) liquor dealer's permit; or
- ~~(5)~~ (4) liquor wholesaler's permit.

The sale, transportation, and delivery of liquor shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, and only in permissible containers and is subject to the rules of the commission fixing the quantity which may be sold or delivered at any one (1) time."

Page 5, between lines 1 and 2, begin a new paragraph and insert:
 "SECTION 10. IC 7.1-3-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a farm winery permit:

- (1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;
- (2) is entitled to serve complimentary samples of the winery's wine on the licensed premises;
- (3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;
- (4) is entitled to sell wine by the bottle or by the case to a person who is the holder of a permit to sell wine at either wholesale or retail;
- (5) is exempt from the provisions of IC 7.1-3-14;
- (6) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery;
- (7) for wine described in IC 7.1-1-2-3(a)(4):
 - (A) may allow transportation to and consumption of the wine on the licensed premises; ~~and~~
 - (B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises; and

(8) is entitled to purchase and sell bulk wine as set forth in this chapter; **and**

(9) is entitled to sell wine as authorized by this section for carryout on Sunday.

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at a second location that is separate from the winery. At the second location, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may, individually or with other permit holders under this chapter, participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. The commission may not grant approval under this subsection to a holder of a permit under this chapter for more than nine (9) days in a calendar year.

SECTION 8. IC 7.1-3-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder of a wine wholesaler's permit may purchase, import, and transport wine, brandy, or flavored malt beverage from the primary source of supply. A wine wholesaler may export and transport wine, brandy, or flavored malt beverage by the bottle, barrel, cask, or other container, to points outside Indiana. A wine wholesaler is entitled to sell, furnish, and deliver wine or flavored malt beverage from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery to a wine wholesaler, a wine retailer, a supplemental caterer, a temporary wine permittee, ~~a supplemental retailer~~, and a wine dealer, but not at retail. A wine wholesaler may sell, furnish, and deliver brandy from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, but not at retail, only to a person who holds a liquor retailer's permit, a supplemental caterer's permit, ~~a supplemental retailer's permit~~, or a liquor dealer's permit. A wine wholesaler also may sell and deliver wine to a consumer, at the consumer's residence, in bottles or other permissible containers in a quantity that does not exceed fifty (50) gallons at any one (1) time.

(b) As used in this section, "brandy" means:

(1) any alcoholic distillate described in 27 CFR 5.22(d) as in effect on January 1, 1983; or

(2) a beverage product that:

(A) is prepared from a liquid described in subdivision (1);

(B) is classified as a cordial or liqueur as defined in 27 CFR 5.22(h) as in effect on January 1, 1997; and

(C) meets the following requirements:

(i) At least sixty-six and two-thirds percent (66 2/3%) of the product's alcohol content is composed of a substance described in subdivision (1).

(ii) The product's label makes no reference to any distilled spirit other than brandy.

(iii) The product's alcohol content is not less than sixteen percent (16%) by volume or thirty-two (32) degrees proof.

(iv) The product contains dairy cream.

(v) The product's sugar, dextrose, or levulose content is at least twenty percent (20%) of the product's weight.

(vi) The product contains caramel coloring.

(c) Nothing in this section allows a wine wholesaler to sell, give, purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless the wine wholesaler also holds a beer wholesaler's permit under IC 7.1-3-3-1.

(d) A wine wholesaler that also holds a liquor wholesaler's permit under IC 7.1-3-8 may not:

(1) hold a beer wholesaler's permit under IC 7.1-3-3;

(2) possess, sell, or transport beer; or

(3) sell more than one million (1,000,000) gallons of flavored malt beverage during a calendar year."

Page 5, delete lines 16 through 42.

Page 6, delete lines 1 through 18.

Page 8, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 22. IC 7.1-3-20-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. ~~(a) This section applies notwithstanding IC 7.1-3-16.5.~~

~~(b)~~ (a) This section applies to each holder of a permit issued under section 2, 3, or 4 of this chapter.

~~(c)~~ (b) A permit holder may sell alcoholic beverages under the terms of the permit on any twelve (12) Sundays during a calendar year.

~~(d)~~ (c) Sales under this section may be made only for on-premises consumption.

SECTION 23. IC 7.1-3-20-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The commission may issue a three-way permit for the sale of alcoholic beverages to the proprietor of a restaurant which is located outside the corporate limits of an incorporated city or town if the restaurant meets the additional requirements:

(1) It shall be a table service restaurant in which a patron is seated at a table and is served by a waiter or waitress and the food served is predominantly consumed on the premises.

(2) It shall be sufficiently served by adequate law enforcement at its premises.

(3) If it does business during seven (7) or more months of each year, it shall have had an annual gross food sales of at least one hundred thousand dollars (\$100,000) for the three (3) years immediately preceding its application for a permit unless the permittee is the proprietor of a recreational facility such as a golf course, bowling center, or similar facility to which

~~IC 7.1-3-16.5-2(c)~~ applies. **that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.**

(4) If it does business during six (6) or fewer months of each year, it shall have had average monthly gross food sales of at least eight thousand five hundred dollars (\$8,500) for each month it did business for the three (3) years immediately preceding its application for a permit."

Page 8, line 9, delete "chapter and" and insert "chapter,".

Page 8, line 10, strike "IC 7.1-3-16.5-2(c),".

Page 8, line 11, strike "or".

Page 8, line 12, strike "a supplemental retailer's permit".

Page 13, delete lines 25 through 31, begin a new paragraph and insert:

"SECTION 29. IC 7.1-4-4.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The following biennial license fee is imposed for an employee's permit:

(1) ~~Five~~ **Fifteen** dollars ~~(\$5)~~ **(\$15)** if the permit is used only to perform volunteer service that benefits a nonprofit organization.

(2) Thirty dollars (\$30) if subdivision (1) does not apply.

The term of a biennial employee's license is two (2) years."

Page 13, delete lines 37 through 42, begin a new paragraph and insert:

"SECTION 31. IC 7.1-4-4.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] : Sec. 9. (a) This section applies to the following ~~seasonal or annual~~ **biennial** permits:

(1) Beer retailer's permit.

(2) Liquor retailer's permit.

(3) Wine retailer's permit.

(4) One-way permit.

(5) Two-way permit.

(6) Three-way permit.

(7) Airplane beer permit.

(8) Airplane liquor permit.

(9) Airplane wine permit.

(10) Boat beer permit.

(11) Boat liquor permit.

(12) Boat wine permit.

(13) Dining car beer permit.

(14) Dining car liquor permit.

(15) Dining car wine permit.

(16) Hotel seasonal permit.

~~(17) Supplemental retailer's permit.~~

(b) The commission shall charge a single fee for the issuance of any combination of retailer's permits issued for the same location or conveyance. ~~Except as provided in sections 10 and 11 of this chapter,~~ the fee is equal to the sum of the amount determined under subsection

(c) and the amount determined under subsection (d).

(c) An annual permit fee in the following amount is imposed on a retailer:

(1) ~~Two hundred fifty~~ **Three hundred seventy-five** dollars ~~(\$250); (\$375)~~, if the retailer serves only beer or only wine.

(2) ~~Five hundred~~ **Six hundred twenty-five** dollars ~~(\$500); (\$625)~~, if the retailer serves both beer and wine but no liquor.

(3) ~~Seven hundred fifty~~ **One thousand three hundred fifty** dollars ~~(\$750); (\$1,350)~~, if the retailer serves beer, wine, and liquor.

(d) ~~An additional fee in the following amount is imposed on a retailer~~

(1) ~~Two hundred fifty dollars (\$250); if the retailer under the authority of IC 7.1-3-16.5 sells food and any combination of beer, wine, or liquor on Sunday.~~

(2) ~~One thousand five hundred dollars (\$1,500) if the retailer who is not under the authority of IC 7.1-3-16.5, sells any combination of beer, wine, or liquor on Sunday.~~

SECTION 32. IC 7.1-4-4.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to the following **biennial** permits:

(1) Beer dealer's permit.

(2) Liquor dealer's permit.

(3) Malt dealer's permit.

(4) Wine dealer's permit.

(b) The commission shall charge a single fee for the issuance of any combination of dealers' permits issued for the same location. The fee is equal to the sum of the amount determined under subsection (c).

(c) An annual permit fee in the following amount is imposed on a dealer:

(1) ~~Two hundred fifty~~ **Three hundred seventy-five** dollars ~~(\$250); (\$375)~~, if the dealer sells only beer, only liquor, or only wine.

(2) ~~Five hundred~~ **Six hundred twenty-five** dollars ~~(\$500); (\$625)~~, if the dealer sells:

(A) both beer and wine but no liquor;

(B) both wine and liquor but no beer; or

(C) both beer and liquor but no wine.

(3) ~~Seven hundred fifty~~ **One thousand three hundred fifty** dollars ~~(\$750); (\$1,350)~~, if the dealer sells beer, wine, and liquor."

Delete page 14.

Page 15, delete lines 1 through 16.

Page 16, line 10, after "dealer's permit" delete "," and insert ".".

Page 16, line 10, strike "and a supplemental retailer's permit."

Page 17, delete lines 2 through 14.

Page 19, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 45. IC 7.1-5-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

- (1) Civic center.
- (2) Convention center.
- (3) Sports arena.
- (4) Bowling center.
- (5) Bona fide club.
- (6) Drug store.
- (7) Grocery store.
- (8) Boat.
- (9) Dining car.
- (10) Pullman car.
- (11) Club car.
- (12) Passenger airplane.
- (13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.
- (14) Satellite facility (as defined in IC 4-31-2-20.5).
- (15) Catering hall under IC 7.1-3-20-24 that is not open to the public.
- (16) That part of a hotel or restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.
- (17) Entertainment complex.
- (18) Indoor golf facility.
- (19) A recreational facility such as a golf course, bowling center, or similar facility to which ~~IC 7.1-3-16.5-2(c)~~ applies: **that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.**
- (20) A licensed premises owned or operated by an educational institution of higher learning (as defined in IC 20-12-15-1).
- (21) An automobile racetrack.

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

- (1) The minor is eighteen (18) years of age or older.
- (2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.
- (3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages."

Page 19, line 26, delete "IC 7.1-3-16.5-3; IC 7.1-3-16.5-4;" and insert "IC 7.1-3-16.5;"

Renumber all SECTIONS consecutively.

(Reference is to HB 1406 as printed February 22, 2005.)

Representative Whetstone